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September 21, 2004

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SEP 21 2004

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

Federal Communications Commission
Office of Secretary

Re: ***Unbundling Access to Network Elements, WC Docket No. 04-313; Review of the Section 251 Obligations of Incumbent Local Exchange Carriers, CC Docket No. 01-338 – Ex Parte***

Dear Ms. Dortch:

On September 20, 2004, James C. Smith, Gary Phillips, Thomas Hughes, Scott Sapperstein, and I, all of SBC Telecommunications, Inc. (SBC), and Colin Stretch, of Kellogg, Huber, Hansen, Todd and Evans, representing SBC, met with Michelle Carey, Thomas Navin, Russell Hanser, Jeremy Miller, Marcus Maher, Pam Arluk, Carol Simpson, Tim Stelzig, Cathy Zima, Gail Cohen, and Ian Dillner, all of the Wireline Competition Bureau to discuss how the Commission can and should develop unbundling rules for high capacity transmission facilities consistent with the requirements of section 251(d)(2) and the D.C. Circuit's *USTA II* decision.

SBC explained that, in light of evidence previously submitted by SBC, Verizon and others regarding CLEC deployment and use of alternatives (including ILEC special access services) to high capacity UNE loops and transport,¹ the Commission could not reach a conclusion consistent with the *USTA II* decision that CLECs are impaired on a national basis without unbundled access to such facilities. SBC further pointed out that, in light of CLEC use of tariffed special access services to serve end users in markets throughout the country and the D.C. Circuit's decision that the Commission must consider the availability of such services in assessing impairment, the Commission should, in fact, eliminate unbundling for all high capacity loop and transport facilities. SBC argued that, if the Commission nevertheless were to conclude

¹ See Letter of Christopher M. Heimann, SBC Telecommunications, Inc., to Marlene H. Dortch, FCC (filed August 18, 2004); Verizon Ex Parte, "Competing Providers are Successfully Providing High-Capacity Services to Customers without Using Unbundled Elements, CC Docket Nos. 01-338, 96-98, and 98-47 (filed June 2004).

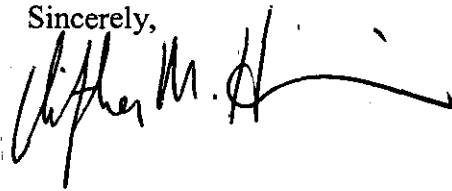
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that CLECs are impaired in their ability to provide some high capacity services in some markets without access to UNE loops and transport, it cannot require unbundling where CLECs can compete using alternatives to UNEs. SBC discussed with the staff various tests for determining whether CLECs can compete using alternatives to high capacity UNE loops and transport

based on the revenue opportunity available in particular areas and/or for particular services. In the course of that discussion, SBC referred to the attached maps, identifying the number of business lines served in wire centers throughout SBC's serving territory.

If you have any questions concerning the foregoing, or the attached maps, please contact the undersigned.

Sincerely,

A handwritten signature in black ink, appearing to read "Christopher M. H.", with a long horizontal flourish extending to the right.

Attachments

cc: Michelle Carey
Thomas Navin
Russell Hanser
Jeremy Miller
Marcus Maher
Pam Arluk
Carol Simpson
Tim Stelzig
Cathy Zima
Gail Cohen
Ian Dillner

REDACTED